

### OWEN E. HERRNSTADT

Owen E. Herrnstadt came to the International Association of Machinists and Aerospace Workers, AFL- CIO, in 1987, serving as the Associate General Counsel for the IAM until June 1993 when he became the IAM's Counsel for Legislative Affairs. In the fall of 1996, he was named the Director for the IAM's Department for International Affairs.

As Associate General Counsel, he, among other things, counseled union officers and representatives, and litigated before various courts and federal agencies. As Counsel for Legislative Affairs, he continued his work developing union policy, delivering speeches on such topics as the Worker Adjustment and Retraining Notification Act, the Americans with Disabilities Act, safety and health laws, substance abuse programs, labor management cooperation, and general labor law.

In his position as Director of the International Department, Mr. Herrnstadt is responsible for all international matters affecting the IAM. This includes, among other things, trade issues, labor standards, international human rights, as well as issues that shape the IAM's relationship with various multi-national corporations. He serves as the IAM's liaison to many international worker federations. He also serves on the Advisory Committee to the U.S. Export-Import Bank, the U.S. State Department's Advisory Committee on International Economic Policy and the Labor Advisory Committee for Trade Negotiations and Trade Policy. Mr. Herrnstadt also serves as senior advisor to retired IAM President George Kourpias in his capacity as Member of the Board of Directors for the Overseas Private Investment Corporation.

Mr. Herrnstadt has traveled extensively reviewing labor standards and giving speeches and lectures on a broad array of topics involving international labor issues. He recently served as Chair of the Workers Group at a tripartite session on labor flexibility at the International Labor Organization in Geneva. He has also traveled to Vietnam on two occasions to review labor standards.

He is the author of various articles on labor law including "Time Once Again to Climb to the Industrial Mountain Top: A Call for Labor Law Reform," "Why Some Unions Hesitate to Participate in Labor Management Cooperation Programs," and "Is Management Ready?" His recent paper "The Role of the United States Government in Setting Offset Policy," was included in the National Research Council's publication, ***Trends and Challenges in Aerospace Offsets***.

Mr. Herrnstadt teaches "Employment Law" as an adjunct professor of law at Georgetown University's School of Law and American University's Washington College of Law in Washington, DC. He received his Bachelor's of Science, Master's of Science and Juris Doctorate degree from the University of Wisconsin. He is a member of the State Bars of the District of Columbia, Minnesota and Wisconsin.

Testimony of  
International Association of Machinists and Aerospace Workers  
Director of International Affairs Owen E. Herrnstadt  
Before the U.S. Trade Deficit Review Commission  
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The International Association of Machinists and Aerospace Workers (IAM) represents over 500,000 workers in a variety of industries **throughout** North America. **IAM** members work in some of this country's most successful industries; aerospace, manufacturing, shipbuilding and repair, woodworking, electronics, and transportation --just to name a few. Given the nature of these industries and the negative effects that offsets are having and will continue to have on our members in these and other industries, the **IAM** has for several years been intensely concerned about the use of offsets by U.S. industry. Accordingly, we are grateful for the opportunity to appear before you today.<sup>1</sup>

Offsets create a serious threat to workers throughout U.S. industry, particularly workers in the U.S. aerospace industry.<sup>2</sup> Among other negative effects, offsets will have a growing negative impact on the lives of working Americans, particularly those whose livelihoods depend on the maintenance and expansion of the U.S. aerospace and related industries. Indeed, the transfer of production and technology abroad has had and will continue to threaten U.S. workers as their jobs and the production techniques they have developed as workers move to other countries.

While more information is needed regarding offsets, what we do know about them is highly disturbing. Indeed, the little information we have should raise **alarms** for anyone who is interested in maintaining and expanding the success of the U.S. aerospace industry. For example, research clearly indicates that offsets dominate the aerospace industry.<sup>3</sup> Research also indicates

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<sup>1</sup>Manyofthe issues presented in this testimony are discussed in more detail in "The Role of the United States Government in Setting Offset Policy," *Trends and Challenges in Aerospace Offsets*, National Research Council, 1999, pp 197-211.

<sup>2</sup> Given the dual use of aerospace technology for national defense and commercial purposes and the inability, at times, to distinguish them, references to the aerospace industry in this statement include both commercial and defense aspects of the industry.

<sup>3</sup>The term "offsets" as used in this testimony refers to a broad range of trade related activities, including, the transfer of technology and production, licensing procurement, subcontracting, research and development, foreign investments, countertrade, and co-production.

that in attempts to satisfy offset demands, U.S. contractors are becoming more and more **creative**.<sup>4</sup> More and more jobs will be sacrificed to satisfy offset demands by other **countries**.<sup>5</sup> In addition, studies have concluded that offsets have contributed to the ability of other countries to establish their own industries which compete with companies in the U.S. and that this trend will become even more problematic in the **future**.<sup>6</sup> Finally, in addition to employment issues, offsets also raise serious concerns about our national security. This statement discusses these offset issues.

1. **Offsets Are Significant And Growing.** Offsets can be directly or indirectly related to the goods purchased by foreign countries, Direct offsets involve technology or production directly related to the purchased product. For example, the **production** of part of the airframe of a fighter is transferred to a company in a foreign country in return for that country purchasing the fighter. Indirect offsets involve transfers of technology, production, or other innovative schemes unrelated to the product being purchased. For example, in return for an agreement by one foreign government to purchase a jet fighter made in the U.S., the U.S. producer of the fighter agrees to find someone in the U.S. who will purchase a paper making machine (an unrelated product) from a company in the foreign country.

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It also includes voluntary marketing schemes that contractors enter into outside of mandates from foreign governments. See e.g., US. Department of Commerce, *Offsets in Defense Trade: A Study Conducted Under Section 309 of the Defense Production Act of 1950, As Amended*, Bureau of Export Administration, Reports to Congress, August 1996-1 998. See also, Randy Barber and Robert E. Scott, *Jobs on the Wing: Trading Away the Future of the U.S. Aerospace Industry*, Economics Policy Institute, 1995.

<sup>4</sup>*Id.*

<sup>5</sup>See Comments of Kirk Bozdogan and Robert E. Scott, *Trends and Challenges in Aerospace Offsets*, National Research Council, 1999.

<sup>6</sup>*Id.* See National Research Council, *Trends and Challenges in Aerospace Offsets*, 1999. See also, Department of Commerce, *Offsets in Defense Trade: A Study Conducted Under Section 309 of the Defense Production Act of 1950, as amended*, Bureau of Export Administration, Reports to Congress, August 1996-1 997. United States General Accounting Office Report to the Honorable Russell D. Feingold, U.S. Senate, Defense Trade, "U.S. Contractors Deploy Diverse Activities to Meet Offset Obligations," December 1998, **Office** of Strategic Industries and Economic Security, Bureau of Export Administration and DFI International, "U.S. Commercial Technology Transfers to the People's Republic of China," January 1999.

Offsets in the aerospace industry are extensive. The Bureau of Export Administration reports that more than half of all U.S. offsets involve aerospace products.’ The Bureau also notes that indirect offsets are growing.\*

While we know that offsets are extensive, particularly in the aerospace industry, inadequate reporting requirements concerning offsets and all of their variations prevent us from knowing exactly how widespread they are. Although some reporting requirements exist for the defense side of the industry, reporting requirements for the commercial side of the industry are virtually nonexistent. Moreover, the reporting requirements that do exist basically exclude the direct and indirect effects that these offset agreements have had on aerospace and related industry subcontractors and producers in unrelated industries **that are** caught in the offset trap.

2. **Job Losses In Aerospace Are Staggering.** Aerospace workers have suffered huge job losses over the past several years. Between 1989 and 1995, over a half million aerospace jobs were lost in the U.S. aerospace industry and one million jobs were lost in related industries. According to the Aerospace Industries Association (AIA), more than 1.3 million workers were employed in the industry in 1989. By 1998, less than 900,000 workers were left. Specifically, in 1989, roughly 153,000 workers were employed in the production of aircraft engines and engine parts. By 1998 the number of aerospace workers in that category had dropped to around 103,000. These losses are even more dramatic for employment in the production of guided missiles and space vehicles. The AIA reports that in 1989, approximately 137,000 workers were employed in the industry but by 1998 this number had been reduced by more than 50 percent to roughly 63,000 workers.

3. **Job Losses in Aerospace Will Grow in the Future.** Estimates predict that over 200,000 jobs in the U.S. aerospace and related industries will be lost by 2013 with offsets accounting for roughly 45,000 direct jobs.’ Unfortunately, with the downturn in the Asian economy and continual reductions in aerospace employment, this prediction is unfortunately coming true. To make matters worse, estimates on future job losses are probably understated as more and more

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‘See e.g., U.S. Department of Commerce, *Offsets in Defense Trade: A Study Conducted Under Section 309 of the Defense Production Act of 1950, As Amended*, Bureau of Export Administration, Reports to Congress, August 1996-1998. See also, Randy Barber and Robert E. Scott, *Jobs on the Wing: Trading Away the Future of the U.S. Aerospace Industry*, Economics Policy Institute, 1995.

<sup>8</sup>*Id.*

<sup>9</sup>See Comments of Rob Scott, *Trends and Challenges in Aerospace Offsets*, National Research Council, 1999. See also, Randy Barber and Robert E. Scott, *Jobs on the Wing: Trading Away the Future of the U.S. Aerospace Industry*, Economics Policy Institute, 1995.

workers of aerospace industry subcontractors lose their jobs as their work is moved abroad to satisfy offset deals.

Of course there are many reasons for the job losses that have occurred and for the job losses that will occur. However, given the importance of the U.S. aerospace and related industries to the Nation's economy, the staggering job losses that aerospace workers have suffered, and the significant job losses that economists predict they will suffer, any possible factor that could prevent or mitigate these losses should be carefully examined. Offset policy is a key factor that could help limit losses and should be made a priority.

4. **Competition With Foreign Companies Intensifies.** Many foreign competitors in the aerospace and related industries emerge with significant assistance from the sophisticated national offset policies that exist in their countries. The countries that are home to these competitors have implemented detailed offset policies that helped to establish them in the global market. A large number of them have become quite successful and are now in direct competition with U.S. companies. A survey of the U.S. aerospace suppliers found that there was a 50 percent decrease "in the number of direct production suppliers between 1991 and 1995 . . . in both the commercial and defense sides" of three sectors of the aerospace supplier base: "airframes, electronics and avionics, and engines and other."<sup>10</sup> Studies indicate that the effects of offsets and the direct competition that has developed from the creation of these foreign sub-tier producers will intensify in the coming years. This development will further erode the aerospace manufacturing base in the United States leading to an additional decline in U.S. aerospace and related industry employment.

5. **National Security Concerns Have Been Raised.** Offsets can lead to the transfer of technology and production to other countries which raise national security issues. Offsets foster proliferation of defense systems abroad and contribute to the shrinking of "the essential sub-tier defense production base at home." They increase the ability of other countries to produce their own weapons systems. "Even seemingly minor kinds of aerospace offsets can aid in the

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"Comments of Kirk Bozdogan, ***Trends and Challenges in Aerospace Offsets***, National Research Council, 1999. See also. Todd A. Watkins, "Dual-Use Supplier Management and Strategic International Sourcing and Aircraft Manufacturing," ***Trends and Challenges in Aerospace Offsets***, National Research Council, 1999.

"Summary of Comments on Carol Evans, ***Policy Issues in Aerospace Offsets: Report of a Workshop***. National Academy of Press, Washington, DC, 1997, cited in "The Role of the United States Government in Setting Offset Policy," ***Trends and Challenges in Aerospace Offsets***, Owen E. Herrnstadt. National Research Council, 1999.

development of a weapons system by such things as enhancing “the platforms used for the delivery of chemical or biological weapons.”]

If history shows us anything, it is that the negative effects of offsets on U.S. industry will not be resolved by leaving offset policy to private parties. Indeed, two of the Nation’s most successful industries have been decimated, in part, by offsets. The U.S. shipbuilding and ship repair industry has lost millions of jobs over the years and offsets are attributed as a significant factor in the industry’s **decline**.<sup>13</sup> Similarly, the U.S. machine tool industry has also suffered a decline due, in part, to the significant use of **offsets**.<sup>14</sup>

Will the U.S. aerospace industry follow suit? For **the** hundreds of thousand of workers in the industry, their families, and the communities where they live, this question is of the utmost importance and one whose ultimate determination should not be left in the hands of private parties whose bottom line is profit – regardless of whether that profit is made from production at home or abroad.

This is why the **IAM** has argued for several years that relegating national offset policy to private parties is irresponsible. We have on numerous occasions invited our government to acknowledge immediately that offsets are a serious issue and establish a comprehensive national policy on this issue. The **IAM** continues to urge the government to establish a permanent, **high-**level commission consisting of representatives of labor, industry, government and academia to develop this policy by addressing the numerous issues related to offsets, including: offsets; licensing procurement; subcontracting; subsidies; technology transfer; production transfer; research and development; foreign investment; export sales and financing; countertrade; and information gathering.

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<sup>12</sup> See, Owen E. Herrstadt, “The Role of the United States Government in Setting Offset Policy,” *Trends and Challenges in Aerospace Offsets*, National Research Council, 1999, containing quote **from** Comments of Carol Evans. It should also be noted that the transfer of technology in the aerospace industry has triggered past reviews. Recall the transfer of machine tools to China several years ago for use in production of commercial aircraft that were ultimately supplied to a Chinese company that produced military equipment. See U.S. General Accounting Office Report to Congressional Requesters, *Export Controls: Sensitive Machine Tool Exports to China*, November 1996.

<sup>13</sup> See Remarks of Cynthia L. Brown, American Shipbuilding Association, *The Offset Summit*, January 21, 1999. See also, Remarks of Franklin W. Losey, Department of Commerce Offset Symposium, April 1, 1998.

<sup>14</sup> See e.g., U.S. Department of Commerce, *Offsets in Defense Trade: A Study Conducted Under Section 309 of the Defense Production Act of 1950, as amended*, Bureau of Export Administration, Report to Congress, August 1997.

Such a Commission should also address issues on internationally recognized labor standards and how the lack of including these standards in all trade agreements and in all trade organizations (such as the World Trade Organization) will lead to further loss of U.S. jobs.

The Commission should coordinate all domestic discussions and multilateral (and bilateral) negotiations aimed at advancing a comprehensive, coordinated national and international policy on offsets. The Commission should also make sure that memorandums of understandings – which contain loopholes and which are, in effect, unenforceable – are rejected. Additionally, the Commission should establish a mechanism to, among other things, advise Congress on legislation concerning offset reporting requirements and establishing offset monitoring procedures.

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The United States can no longer be complacent with leaving offset policy in the hands of private parties. The conclusion of some people that offsets are at best, a way for the U.S. to enter foreign markets and at worst a “necessary evil” must be rejected once and for all. While much more must be learned about the precise impact that offsets and all of their variations have on the U.S. workforce, what we do know is that labeling offsets as “an inconvenience” or a “necessary evil” is an unacceptable response to the U.S. aerospace workers, their families and the communities that have made this industry so successful.

The U.S. Government must take action now to develop a comprehensive policy to address offset issues.

I would be remiss if I also did not take this opportunity to emphasize that the **WTO**, which meets here in just a few weeks, must incorporate effective and enforceable internationally recognized labor standards into its framework.

Indeed, the rules of global trade and investment must once and for all recognize and incorporate internationally recognized labor standards, including the five core labor standards frequently referred to: the right to association, right to organize and bargain collectively, prohibitions on child labor, prohibitions on discrimination, and prohibitions on forced or compulsory labor. These are not only moral issues, they are also economic issues that go to the heart of the world’s trade policies. A trade policy that ignores workers rights and human rights is doomed to failure -- failure that will be placed on the backs of hundreds of thousands of workers that have built the U.S. economy (many of them **IAM** members) who will find their jobs have been traded away for short-term corporate profit.

I would also be remiss if I did not mention our deep concern over China’s desire to be admitted into the WTO. As we have stated in a prior submission to the International Trade Commission, China’s refusal to meet transparency requirements and its continued reliance on the transfer of technology and production in return for market access continues to threaten the U.S. workers. As we also noted then, “the U.S. should be clear to China that refusal to accept and

implement internationally recognized labor standards and other human rights and its refusal to honor international trade norms will not be rewarded by accession to the WTO.”

**As** stated at the outset, the IAM is grateful for this opportunity to once again state our views on these important matters.